

EXHIBIT 1

Exhibit 1

Case Information

DC-21-08325 | CONCEPCION DANIEL vs. KROGER TEXAS, LP

Case Number	Court	Judicial Officer
DC-21-08325	68th District Court	HOFFMAN, MARTIN
File Date	Case Type	Case Status
06/29/2021	PROPERTY	OPEN

Party

PLAINTIFF
DANIEL, CONCEPCION

Address
10440 N. CENTRAL EXPRESSWAY
SUITE 1240
DALLAS TX 75231

Active Attorneys ▼
Lead Attorney
LIDJI, I SCOTT
Retained

DEFENDANT
KROGER TEXAS, LP

Address
BY SERVING ITS REGISTERED AGENT CORPORATION SERVICE
COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN TX 78701

Active Attorneys ▼
Lead Attorney
BRISCOE, B KYLE
Retained

Events and Hearings

06/29/2021 NEW CASE FILED (OCA) - CIVIL

06/29/2021 ORIGINAL PETITION ▼

PLAINTIFF S ORIGINAL PETITION

06/29/2021 ISSUE CITATION ▼

ISSUE CITATION - KROGER TEXAS, LP

07/01/2021 CITATION ▼

Served

07/06/2021

Anticipated Server

ESERVE

Anticipated Method

Actual Server

OUT OF COUNTY

Returned

07/08/2021

Comment

KROGERS TEXAS, LP

07/08/2021 RETURN OF SERVICE ▼

EXECUTED CITATION - KROGERS TEXAS, LP

Comment

EXECUTED CITATION - KROGERS TEXAS, LP

07/15/2021 ORIGINAL ANSWER - GENERAL DENIAL

Financial

DANIEL, CONCEPCION

Total Financial Assessment

\$300.00

Total Payments and Credits

\$300.00

6/29/2021	Transaction Assessment			\$300.00
6/29/2021	CREDIT CARD - TEXFILE (DC)	Receipt # 41407-2021-DCLK	DANIEL, CONCEPCION	(\$300.00)

Documents

PLAINTIFF S ORIGINAL PETITION
ISSUE CITATION - KROGER TEXAS, LP
EXECUTED CITATION - KROGERS TEXAS, LP

EXHIBIT 2

Exhibit 2

DELIVERED

71 6 121

By PC/215MSJ
Austin Process, LLC

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

**To: KROGER TEXAS, LP
BY SERVING ITS REGISTERED AGENT: CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TX 78701**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org. Your answer should be addressed to the clerk of the **68th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **CONCEPCION DANIEL**

Filed in said Court **29th day of June, 2021** against

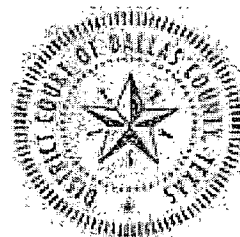
KROGER TEXAS, LP

For Suit, said suit being numbered **DC-21-08325**, the nature of which demand is as follows:
Suit on **PROPERTY** etc. as shown on said petition, **REQUEST FOR DISCLOSURE**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 1st day of July, 2021.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Irasema Sutherland*, Deputy
IRASEMA SUTHERLAND



ESERVE

CITATION

DC-21-08325

**CONCEPCION DANIEL
vs.
KROGER TEXAS, LP**

**ISSUED THIS
1st day of July, 2021**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: **IRASEMA SUTHERLAND**, Deputy

**Attorney for Plaintiff
I. SCOTT LIDJI
THE LIDJI FIRM
10440 N. CENTRAL EXPY.
SUITE 1240
DALLAS, TX 75231
972-223-7455**

scott@thelidjifirm.com

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-21-08325

Court No.68th District Court

Style: CONCEPCION DANIEL

vs.

KROGER TEXAS, LP

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ .M. Executed at _____,
within the County of _____ at _____ o'clock _____ .M. on the _____ day of _____,
20_____, by delivering to the within named _____

each in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation	\$ _____	_____
For mileage	\$ _____	of _____ County, _____
For Notary	\$ _____	By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 54973035

Status as of 7/1/2021 11:50 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Legal Lidji		legal@thelidjifirm.com	7/1/2021 11:50:00 AM	SENT

1 CIT/ ES

DC-21-08325

CAUSE NO. _____

CONCEPCION DANIEL

Plaintiff,

v.

KROGERS TEXAS, LP

Defendants,

§ IN THE DISTRICT COURT

§

§

§

§

DALLAS COUNTY, TEXAS

§

§

§ 68th

§

§

_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, CONCEPCION DANIEL, complaining of Defendant, KROGERS TEXAS, LP and for cause of action would show unto the Court the following:

I.**PARTIES AND SERVICE****Plaintiff**

1. Plaintiff, CONCEPCION DANIEL is a resident of Dallas, Texas.

Defendant

1.2 Defendant, Kroger Texas, L.P., is a Limited Partnership formed under the law of the State of Ohio. The general partner of Krogers Texas, L.P., is KGRP, Inc., an Ohio corporation with its principal place of business in Ohio. The only limited partner is KRLP, Inc., an Ohio corporation with its principal place of business in Ohio. Accordingly, Defendant Kroger Texas, L.P., is a citizen of the State of Ohio. Defendant Kroger, Texas, L.P., may be served with citation through its registered agent: Corporation Service Company, 701 Brazos Street, Suite 1050, Austin, Texas 78701.

II.
JURISDICTION AND VENUE

2.1 This Court has jurisdiction over these Defendant as they conduct business in the State of Texas and the amount in controversy exceeds the minimum jurisdictional limit of this Court. Venue is proper in Dallas County, Texas under the Texas Civil Practices and Remedies Code §15.002 as the Kroger's store is located at Shiloh Road and 1406 West Walnut Street in Garland, Dallas County, Texas.

III.
FACTS

3.1 On July 15, 2019, Plaintiff, CONCEPCION DANIEL was entering the Kroger's store located at 1406 West Walnut Street in Garland, Texas and had just entered the store and was walking past the floral department when she slipped and fell on what she learned was a puddle of water, causing the Plaintiff's injuries in this matter.

3.2 As a result of the Defendant's negligent conduct, failing to keep the floors dry and safe and failing to place warning signs where the standing water was until it was cleaned, caused the Plaintiff's injury.

3.3 Consequently, Plaintiff suffered serious bodily injury as a result of the negligently maintained electric door which was the dangerous condition that injured the Plaintiff.

IV.
PREMISES LIABILITY

4.1 Plaintiff was a business invitee on the premises in question.

4.2 KROGER TEXAS, LP is the owner or property manager responsible for maintaining the grassy area and the rebar in question which forms the basis of this lawsuit occurred.

4.3 The condition of the wet floor created a dangerous condition on said premises.

4.4 Defendant knew or reasonably should have known of the above-referenced dangerous condition on said premises.

4.5 Defendants owed a duty to Plaintiff to warn of said dangerous condition and to make the dangerous condition safe. Defendant breached its duty by failing to warn and failing to make safe this dangerous condition.

4.6 Said breach of duty by Defendant was the proximate cause the Plaintiff's injuries complained of herein.

V.
DAMAGES OF PLAINTIFF

5.1 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff was injured. Plaintiff demands compensation for the following damages.

1. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services;
2. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
3. Physical pain and suffering and mental anguish in the past;
4. Physical pain and suffering and mental anguish which, in all reasonable probability, will be suffered in the future;
5. Physical impairment;
6. Physical disfigurement;
7. Loss of earning capacity in the past and future;

8. Loss of household services;
9. By reason of all of the above, Plaintiff, has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

VI.
PLAINTIFF'S DAMAGES - RULE 47

6.1. Plaintiff refers to all the preceding and subsequent pleadings in this petition and incorporated herein by this reference for all purposes.

6.1. Pursuant to the provisions of Rule 47 of the Texas Rules of Civil Procedure, Plaintiff alleges that the damages sought by Plaintiff are within the jurisdictional limits of the Court and Plaintiff seeks monetary relief over \$250,000.00 and less than \$1,000,000.00. Plaintiff further alleges that any award for damages is ultimately left to the purview of the jury. Therefore, Plaintiff seeks judgment for all other relief to which Plaintiff may be entitled.

6.3 As a direct and proximate result of the wrongful conduct of Defendant, as alleged herein, Plaintiff has sustained both property damages as well as medical injuries, including past and future pain and suffering, past and future lost wages, and economic damages.

VII.
REQUEST FOR DISCLOSURE

7.1 Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiff requests Defendant to disclose within fifty (50) days of service of this request, the information and material described in Rule 194. Plaintiff further requests that the responding parties produce the responsive documents at The LIDJI Firm in fifty (50) days of service of this request. This Request was initially served on Defendant with Plaintiff's Original Petition.

VIII.
JURY DEMAND

8.1 Plaintiff requests a trial by jury in this matter.

IX.
DOCUMENTS TO BE USED

9.1 Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff intends to use all documents exchanged and/or produced between, by, or among any parties in this matter, including but not limited to, correspondence, discovery responses, and records (obtained via depositions upon written questions, by subpoena, by affidavit, or otherwise), during the trial of the above-entitled and numbered cause. Moreover, Defendant is put on notice not to destroy any evidence, including, but not limited to reports, files, inter-office emails, intra-office emails, emails from the store from the corporate office, and/or any communication whatsoever related to the defective seating system that resulted in the Plaintiff's incident on July 15, 2019. Furthermore, this notice includes preserving any and all videotape surveillance of the incident in question as well as any evidence related to the floral department on July 15, 2019.

X.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

The LIDJI Firm

/s/ I. Scott Lidji

I. Scott Lidji

Texas Bar No. 24000336

scott@thelidjifirm.com

Mary Jo R. Betzen

State Bar No. 24089054

maryjo@thelidjifirm.com

CARLOS G. GALLIANI

Texas Bar No. 24069752

carlos@thelidjifirm.com

Meadow Park Tower

10440 N. Central Expressway

Suite 1240

Dallas, Texas 75231

legal@thelidjifirm.com

(972) 223-7455 (Tel)

(214) 753-4751 (Fax)

(800) BADPILL (Toll free)

Website: BADPILL.COM

ATTORNEYS FOR PLAINTIFF

EXHIBIT 3

Exhibit 3

CAUSE NO. DC-21-08325

CONCEPCION DANIEL,	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
vs.	§	68 TH JUDICIAL DISTRICT
	§	
KROGERS TEXAS, LP	§	
Defendant.	§	OF DALLAS COUNTY, TEXAS

DEFENDANT KROGER TEXAS L.P.'S ORIGINAL ANSWER AND VERIFIED DENIAL

COMES NOW, Defendant KROGER TEXAS L.P. (improperly named as "Krogers Texas, LP") and files this, its Original Answer and shows the Court as follows:

**I.
VERIFIED DENIAL**

By way of verified denial pursuant to Rule 93 of the Texas Rules of Civil Procedure, Defendant denies that Plaintiff is entitled to recover from " Krogers Texas, LP " in the capacity in which this entity has been sued. Defendant denies that " Krogers Texas, LP " owned or operated the store at issue on the date of this incident. Defendant also denies that " Krogers Texas, LP," as named, is an entity in existence. Consequently, Plaintiff has no right or potential right of recovery against " Krogers Texas, LP " because the proper party has not been sued. *See, e.g., Ray Malooly Trust v. Juhl*, 186 S.W.3d 568, 571 (Tex. 2006).

**II.
GENERAL DENIAL**

Defendant denies each and every material allegation contained in Plaintiff's Original Petition, demands strict proof thereof, and to the extent that such matters are questions of fact, says Plaintiff should prove such facts by a preponderance of the evidence to a jury if she can so do.

**III.
DEFENSES**

1. Defendant had neither actual nor constructive knowledge of the condition about which Plaintiff complains, and further asserts that, in any event, the alleged hazard was not “unreasonably dangerous.”

2. Alternatively, Defendant provided adequate warning of the condition at issue.

3. Plaintiff’s damages or injuries, if any, were caused by the acts of third persons not under the control of Defendant. Such acts or omissions of said third persons were the sole and/or a producing and/or a proximate and/or an intervening and/or a supervening cause of Plaintiff’s damages or injuries, if any.

4. The alleged premises condition of which Plaintiff complains was already appreciated by Plaintiff, was open and obvious, was not concealed, and/or was a known risk and, therefore, Defendant denies that it owed any duty to warn Plaintiff of the alleged premises condition or protect Plaintiff from same. *Austin v. Kroger Texas L.P.*, 465 S.W.3d 193, 203 (Tex. 2015).

5. Plaintiff failed to use that degree of care and caution that would have been used by a reasonable person under the same or similar circumstances, thereby producing or proximately causing or contributing to cause Plaintiff’s injuries and damages, if any. Such acts or omissions of Plaintiff were the sole and/or a producing and/or a proximate and/or a supervening and/or an intervening cause of Plaintiff’s damages or injuries, if any.

6. In the alternative, the accident complained of was an unavoidable accident, as that term is defined under Texas law.

7. Defendant respectfully requests that the factfinder allocate responsibility, if any, among all parties, settling parties, and responsible third parties, in accordance with Chapters 32 and 33 of the Texas Civil Practice and Remedies Code.

8. In the unlikely event an adverse judgment is rendered against Defendant in this matter, Defendant respectfully prays for contribution, indemnity and/or all available credits as provided for in the Texas Civil Practice and Remedies Code and under Texas law.

9. To the extent that the damages about which Plaintiff complains, if any, were the result of prior or pre-existing or subsequent injuries, accidents or conditions, said prior or pre-existing or subsequent injuries, accidents or conditions were the sole and/or a contributing cause of Plaintiff's damages alleged against Defendant.

10. To the extent that Plaintiff breached Plaintiff's duty to mitigate damages by failing to exercise reasonable care and diligence to avoid loss and minimize the consequences of damages, such damages are not reasonable or necessary.

11. To the extent that Plaintiff is malingering and/or exaggerating the nature and severity of Plaintiff's injuries in order to continue treatment, Defendant contends said treatment is not medically necessary or reasonable.

12. Any claims for past and future medical or health care expenses are limited to the customary and usual amounts charged for reasonable and necessary medical care and, with respect to past medical expenses, are further limited to the amounts actually paid or incurred by or on behalf of Plaintiff, pursuant to Texas Civil Practice and Remedies Code § 41.0105.

13. Pursuant to Texas Civil Practice & Remedies Code § 18.091, to the extent that Plaintiff is seeking a recovery for loss of earnings, lost wages, loss of earning capacity and/or

loss of contributions of pecuniary value, evidence of such alleged losses must be presented by Plaintiff in the form of a net loss after reduction for income tax payments, or unpaid tax liability to any federal income tax law.

COURT REPORTER REQUESTED

Kroger respectfully demands a court reporter be present at all proceedings before the Court.

**IV.
PRAYER**

Defendant respectfully prays that Plaintiff take nothing by this cause of action, that Defendant be permitted to recover the costs expended on its behalf, and for such other and further, both general and special, at law and in equity, to which it may show itself to be justly entitled.

Respectfully submitted,

/s/ B. Kyle Briscoe

B. Kyle Briscoe

State Bar No. 24069421

kbriscoe@peavlerbriscoe.com

Michael W. Stumbaugh

State Bar No. 24041987

mstumbaugh@peavlerbriscoe.com

PEAVLER | BRISCOE

2215 Westgate Plaza

Grapevine, Texas 76051

214-999-0550 (telephone)

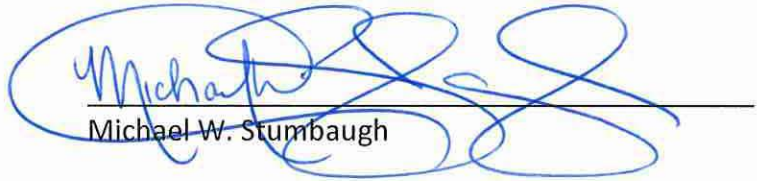
214-999-0551 (fax)

ATTORNEYS FOR DEFENDANT

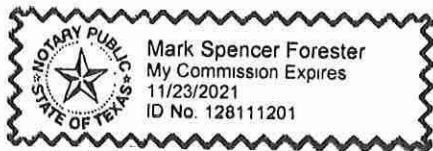
VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Before me, the undersigned authority, did personally appear Michael W. Stumbaugh, who upon his oath deposes and says that he is one of the attorneys for Defendant, that he has never been convicted of a crime, and that he is over the age of 21 and competent to make this verification. Accordingly, Mr. Stumbaugh verifies that the facts alleged in Section I Verified Denial of the foregoing pleading are true and correct.


Michael W. Stumbaugh

Subscribed and sworn to before me on this 15th day of July, 2021.




NOTARY PUBLIC in and for the State of Texas

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record pursuant to and in accordance with the Texas Rules of Civil Procedure on July 15, 2021.

/s/ B. Kyle Briscoe

B. Kyle Briscoe

Automated Certificate of eService

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Bryan Briscoe on behalf of Bryan Briscoe
Bar No. 24069421
kbriscoe@peavlerbriscoe.com
Envelope ID: 55389805
Status as of 7/15/2021 3:44 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Legal Lidji		legal@thelidjifirm.com	7/15/2021 2:19:37 PM	SENT
Kyle Briscoe		kbriscoe@peavlerbriscoe.com	7/15/2021 2:19:37 PM	SENT
Michael Stumbaugh		mstumbaugh@peavlerbriscoe.com	7/15/2021 2:19:37 PM	SENT
Mark Forester		mforester@peavlerbriscoe.com	7/15/2021 2:19:37 PM	SENT
Liz Contreras		econtreras@peavlerbriscoe.com	7/15/2021 2:19:37 PM	SENT